

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JENNIFER KRALEY HEINRICH, Individually
and as limited guardian ad litem for A.K.J., a
Minor,

Plaintiffs,

v.

CASTLE ROCK SCHOOL DISTRICT, a
Municipal Corporation;

Defendant

NO. 3:23-cv-05945-TMC

ORDER ON STIPULATED PETITION TO
APPOINT A SETTLEMENT GUARDIAN
AD LITEM

THIS MATTER came before the Court on the Petition herein for appointment of Settlement Guardian ad Litem filed on behalf of the above-named minor A.K.

The Court finding that the facts set forth give the court jurisdiction over this matter, that a tentative settlement has been reached on behalf of A.K., minor, and that pursuant to SPR 98.16W, a Guardian ad Litem or independent attorney is required to investigate and evaluate the proposed settlement; now therefore,

It is ORDERED that Settlement Guardian ad Litem **Virginia DeCosta** is a person found or known by the Court to be a suitable, disinterested person having the requisite

1 knowledge, training and expertise to perform the duties required by RCW 11.88.090 and SPR
2 98.16W and is hereby appointed to represent the interests of the named minors.

3 The Settlement Guardian ad Litem shall, within (45) forty-five days after appointment,
4 unless otherwise ordered, file a report with the Court and provide a copy to each party, or their
5 counsel, if they are represented.
6

7 **IT IS FURTHER ORDERED** that this matter shall be set for hearing on October 29,
8 2024, at 3:00 pm, regarding the SGAL's findings in this matter.

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10 **IMPORTANT MESSAGE FOR G.A.L. OR INDEPENDENT ATTORNEY**
11 -----

12 **A. Duties.** The G.A.L. shall have the following duties:

- 13 1. To investigate and evaluate the adequacy of the offered settlement in light of the needs
14 and best interests of the minor.
- 15 2. To review written or oral reports from the attorneys, guardians, and medical providers
16 necessary to permit a complete report as required by SPR 98.16W.
- 17 3. To provide the court with a written report which shall include a description, **in depth**
18 **appropriate to the magnitude of injuries and the amounts offered**, of at least:
19

20 (a) Appointment of Settlement Guardian ad Litem: State your name, date
21 of appointment, and the date that you started working on this matter. Give a brief
22 statement of your experience and qualifications as pertain to serving as Settlement
23 Guardian ad Litem or attach a C.V. with this information. Describe your
24 relationship, if any, with involved parents, guardians, insurers or attorneys.

25 (b) Investigation: Describe the investigation you conducted, the persons
26 interviewed, and the documents your reviewed.

1 (c) Description of Incident and Cause of Action: Describe the incident
2 and the affected person's legal claims.

3 (d) Injuries: Describe the injuries and their severity; length of disability;
4 and prognosis for future disability. Attach a copy of a recent supporting medical
5 report or office record.

6 (e) Damages: Describe the special and general damages that are
7 potentially recoverable.

8 (f) Liability Issues: Describe the factors bearing on the defendant(s)'s
9 liability, including issues of primary negligence, contributory or comparative
10 negligence, causation and probable chances of recovery.

11 (g) Insurance & Assets Available to Satisfy Claim: State the nature and
12 extent of all insurance coverage or assets available to satisfy the claim, whether
13 maintained through the defendant, the family, or available through government
14 entitlements.

15 (h) Liens and Subrogation: Identify all liens, subrogation, and
16 reimbursement claims. Make a recommendation regarding how those claims are
17 to be resolved including a recommendation regarding retention in any attorney's
18 trust account of the full amount claimed until the final resolution of the claim.

19 (i) Other Claims: Identify all other claims arising out of the same
20 occurrence. State whether another family member has a claim arising out of the
21 same occurrence, and whether a family member is or could be a defendant in any
22 action based on the claim.
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24
25
26

1 (j) Appointment: Indicate the amount, basis, and justification for
2 allocating the gross settlement to be paid by defendants among the various
3 claimants of the same family or unrelated claimants, if any. State whether the
4 minors or incapacitated person was independently represented at the time the
5 proposed apportionment was determined.
6

7 (k) Proposed Settlement: Discuss and evaluate the reasonableness of the
8 proposed settlement amount, stating the basis for your valuation of the claim.
9 Also discuss the form the settlement might take (e.g. blocked amount,
10 guardianship, structured settlement, or trust) and the proposed settlement
11 documents.
12

13 (l) Expenses and Fees: Discuss and evaluate the reasonableness of the
14 attorney's requested, costs to be reimbursed, and any other deductions from the
15 proceeds of the claim.

16 (m) Disposition of Net Proceeds: Clearly set forth your calculation of the
17 net proceeds of the claim. Begin with the proposed offer and subtract reasonable
18 attorney's fees and costs, liens and subrogation reimbursements, settlement
19 Guardian ad Litem fees, etc. Giving your reasons and recommendations
20 regarding how the funds should be placed. If you recommend use of a blocked
21 account state how the funds shall be transferred into the blocked account and who
22 is responsible for filing the receipt for blocked account. If a legal guardianship
23 is required, state the nominee and the terms that you recommend and ensure that
24 forms offered comply with RCW 11.88. If you recommend a structured
25 settlement, state why that option is preferred, and the specific terms that ought to
26

1 be employed and how they relate to the specific needs of the minors or
 2 incapacitated person. For structured settlements, include the cost of the structured
 3 portion, the interest rate received, the name of the company, and its financial
 4 rating. If you or any party recommend the creation of a trust as a recipient of the
 5 settlement funds, give your recommendation as to the special needs of the
 6 incapacitated person and how they would be served by the trust; specific
 7 provisions that ought to be included or omitted from the trust document; and your
 8 nomination of professional to draft the trust, and the recommended fee therefore.
 9

10 (n) Settlement Guardian ad Litem Fees: Attach a declaration of your time
 11 and services, giving your professional rate and the amounts sought. Indicate who
 12 you recommend pay these fees and costs.
 13

14 (o) Presence at Hearing: State whether the minors or the settlement
 15 Guardian ad Litem, or any other person should be present at the hearing to
 16 approve the settlement, and why.

17 (p) Conclusion: Give your recommendations as to the adequacy of the
 18 offered settlement, the application of the proceeds, and the steps to be followed
 19 if you recommend that the settlement not be approved.
 20

21 B. To accomplish all other duties required under SPR 98.16W and order of the court.

22 C. The cost of bringing this proceeding, the Settlement Guardian ad Litem's fee, will
 23 be paid by the defense insurance carrier.

24 D. A Court's working copy of the report shall be delivered not later than three (3) days
 25 preceding the hearing. If the assigned judge has not retained jurisdiction to hear this matter,
 26 the working copy of the report shall be submitted to the Commissioner's Services Department.

1 E. The Settlement Guardian ad Litem shall not employ or retain counsel or experts
2 to assist in these duties except as authorized in advance by the court and shall promptly advise
3 the court if others have retained such a person without court authorization, including but not
4 limited to the retention of counsel to initiate litigation or draft a trust.

5 F. The Settlement Guardian ad Litem may seek instruction from the court upon
6 application and notice to all parties. If any records or portion of the report contains confidential
7 information which may adversely affect the settlement of the claim if publicized before trial,
8 seek appropriate direction from the court.
9

10 DONE IN OPEN COURT this 6th day of September, 2024.

11
12 

13 Tiffany M. Cartwright
14 United States District Judge

15 Presented by:

16 LAW OFFICE OF THADDEUS P.
17 MARTIN

PATTERSON BUCHANAN
FOBES & LEITCH, INC., P.S.

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